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Stepehn C. Glazier Kirkpatrick & Lockhart Nicholson Graham LLP 1601 K St., NW Washington, DC 20006			MANCHO, RONNIE M	
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			3663	

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,810

Applicant(s)

LOWREY ET AL.

Examiner

Ronnie Mancho

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-15,17-40,42-52,54-77 and 79-90 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-15,17-40,42-52,54-77 and 79-90 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/7/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 32, 51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. In claims 32, 51, the applicant claims “wirelessly receiving a schema”. The applicant went forth to disclose the meaning of a schema to encompass a plurality of meanings confusing the scope of the claims. As an example, the applicant cites that a schema component:

--- identifies diagnostic data to be collected;

--- features an address that describes a location of a diagnostic datum in a computer memory;

--- includes a field that regulates time and frequency for querying an onboard computer;

--- includes a field that regulates time and frequency for collecting data from an onboard computer;

Art Unit: 3663

--- identifies a subset of the set of operational characteristics that are monitored by an on-board computer, etc, etc.

It is clearly seen that the term “schema” is indefinite as applied to the claim language. The applicant’s drawings do not disclose what the applicant is referring to as a schema. It is therefore not clear what all is meant and encompassed by the term “schema” as applied to the claims.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 6-15, 17-40, 42-52, 54-77, 79-90 are rejected under 35 U.S.C. 102(b) as being anticipated by Spaur et al (5732074).

Regarding claim 1 Spaur (as best understood) disclose a system (figs. 1-4) for interfacing with an on-board diagnostic computer in a vehicle, wherein the on-board diagnostic computer (122, 124, col. 10, lines 37+) is configured to monitor a set of operational characteristics of the vehicle, the system comprising:

Art Unit: 3663

a wireless appliance (30, 80, 82, 84, fig. 2) which during use communicates with the vehicle's on-board diagnostic computer (122, 124, col. 10, lines 37+), said wireless appliance comprising (i) a wireless communication component and (ii) a data-collection component (figs. 1-4),

said wireless communication component configured to wirelessly receive a software component (IP address, col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) identifying a subset of the set of operational characteristics that are monitored by the on-board diagnostic computer (122, 124, col. 10, lines 37+),

said data-collection component configured to process the received software component and to collect from the vehicle's on-board diagnostic computer data for the subset of operational characteristics identified in the received software component (col. 9, lines 33-67),

said wireless communication component (30, 80, 82, 84, fig. 2) being further configured to wirelessly transmit (col. 2, lines 53+; col. 3, lines 49+) said collected data,

wherein the software component identifies an address of an operational characteristic (col. 2, lines 53+; col. 3, lines 49+) for which data is to be collected from the vehicle's on-board diagnostic computer (122, 124, fig. 2),

Art Unit: 3663

wherein the software component includes a field configured to describe a user specified rate of automatically querying the (That is the PCMCIA unit when inserted by the user collects the desired data automatically when the user desires, col. 11, lines 15-26; updated data, col. 9, lines 31-36) vehicle's on-board diagnostic computer by the data-collection component,

wherein the operational characteristics include at least one of the following: diagnostic trouble codes, vehicle speed, fuel level, fuel pressure, miles per gallon, engine RPM, mileage, oil pressure, oil temperature, tire pressure, tire temperature, engine coolant temperature, intake-manifold pressure, engine-performance tuning parameters, alarm status, accelerometer status, cruise-control, status, fuel-injector performance, spark-plug timing, and a status of an anti-lock braking system (col. 9, lines 10+),

wherein the wireless appliance (30, 80, 82, 84, fig. 2) is configured to send an outgoing data packet that indicates a vehicle's location (col. 9, line 5; col. 3, lines 49+),

wherein the data-collection component is configured to repeatedly collect said data from the vehicle's on-board diagnostic computer (122, 124, fig. 2) at times determined by a first schedule specified in the software component, and

wherein the wireless communication component is configured to repeatedly wirelessly transmit (col. 2, lines 53+; col. 3, lines 1-67) the collected data at times determined by a second schedule specified in the software component.

Regarding claim 2 Spaur (as best understood) disclose a system for interfacing with an on-board diagnostic computer (122, 124, fig. 2) in a vehicle, wherein the on-board diagnostic computer is configured to monitor a set of operational characteristics of the vehicle, the system comprising:

a wireless appliance (30, 80, 82, 84, fig. 2) which during use communicates with the vehicle's on-board diagnostic computer (122, 124, col. 10, lines 37+), said wireless appliance comprising (i) a wireless communication component and (ii) a data-collection component (figs. 1-4),

said wireless communication component configured to wirelessly receive a software component (IP address, col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) identifying a subset of the set of operational characteristics that are monitored by the on-board diagnostic computer,

said data-collection component configured to process the received software component and to collect from the vehicle's on-board diagnostic computer data for the subset of operational characteristics identified in the received software component (col. 9, lines 33-67), and

said wireless communication component being further configured to wirelessly transmit (col. 2, lines 53+; col. 3, lines 1-67) said collected data,

wherein the software component comprises a field configured to describe a user specified rate for automatically querying the vehicle's on-board diagnostic computer by the data collection component.

Regarding claim 3 Spaur disclose the system of claim 2, wherein the software component identifies an address of an operational characteristic for which data is to be collected from the vehicle's on-board diagnostic computer.

Regarding claim 4 Spaur disclose the system of claim 2, wherein the software component comprises an address that describes a location of a diagnostic datum in a computer memory in the vehicle (cols. 2&3).

Regarding claim 6 Spaur disclose the system of claim 2, wherein the software component comprises a field that describes a time or frequency at which the data-transmission component transmit data.

Regarding claim 7 Spaur disclose the system of claim 2, wherein the software component is an ASCII or binary data file.

Regarding claim 8 Spaur disclose the system of claim 2, wherein the operational characteristics include at least one of the following: diagnostic trouble codes, vehicle speed, fuel level, fuel pressure, miles per gallon, engine RPM, mileage, oil pressure, oil temperature, tire pressure, tire temperature, engine coolant temperature, intake-manifold pressure, engine-performance tuning

Art Unit: 3663

parameters, alarm status, accelerometer status, cruise-control status, fuel-injector performance, spark-plug timing, and a status of an anti-lock braking system.

Regarding claim 9 Spaur disclose the system of claim 2, wherein the wireless appliance is configured to send an outgoing data packet that indicates a vehicle's location.

Regarding claim 10 Spaur disclose the system of claim 2, wherein the vehicle is selected from a group comprising an automobile, truck, wheeled commercial equipment, heavy truck, power sport vehicle, collision repair vehicle, marine vehicle, and recreational vehicle.

Regarding claim 11 Spaur disclose the system of claim 2, wherein the data-collection component is configured to repeatedly collect said data from the vehicle's on-board diagnostic computer at times determined by a first schedule.

Regarding claim 12 Spaur disclose the system of claim 11, wherein the first schedule is specified in the software component.

Regarding claim 13 Spaur disclose the system of claim 2, wherein the wireless communication component is configured to repeatedly wirelessly transmit the collected data at times determined by a first schedule.

Regarding claim 14 Spaur disclose the system of claim 13, wherein the first schedule is specified in the software component.

Art Unit: 3663

Regarding claim 15 Spaur disclose a system for monitoring a set of vehicles, comprising:

a host computer 60 configured to host a web site (col. 11, lines 58 to col. 12, lines 1-67) that receives operational characteristics transmitted wirelessly from the set of vehicles (col. 13, lines 19-23; fleet of vehicles, col. 14, line 1),

wherein the host computer is configured to wirelessly transmit a software component identifying a subset of a set of operational characteristics (col. 2, lines 53+; col. 3, lines 49+) to be monitored by an on-board diagnostic computer (122, 124, fig. 2) located in each of the set of vehicles,

wherein the software component comprises a field configured to describe a user specified rate for automatically querying each vehicle's on-board diagnostic computer for the subset of operational characteristics identified in the software component,

said web site programmed to display on a first web interface queried operational characteristics of a single vehicle selected from among said set of vehicles,

said web site programmed to also display on a second web interface operational characteristics of multiple vehicles among said set of vehicles,

wherein said multiple vehicles are associated with a single entity (col. 13, lines 19-23; fleet of vehicles, col. 14, line 1).

Regarding claim 17 Spaur disclose the system of claim 15, wherein the web site includes a software component selector to select the schema to be transmitted.

Regarding claim 18 Spaur disclose the system of claim 15, wherein the first web interface comprises a first web page that displays a vehicle diagnostic datum.

Regarding claim 19 Spaur disclose the system of claim 18, wherein the first web page comprises data fields describing: (i) a name of a diagnostic datum; (ii) units corresponding to the diagnostic datum; and (iii) a numerical value corresponding to the diagnostic datum.

Regarding claim 20 Spaur disclose the system of claim 19, wherein the first web page further comprises.

Regarding claim 21 Spaur disclose the system of claim 18, wherein the first web page includes a graphical representation of a set of diagnostic data.

Regarding claim 22 Spaur disclose the system of claim 15, wherein the web site further comprises a database component.

Regarding claim 23 Spaur disclose the system of claim 15, wherein the web site further comprises a login web page programmed to accept user name and password inputs of a user.

Regarding claim 24 Spaur disclose the system of claim 23, wherein the web site is configured to determine whether the user is associated with the first or second web interface.

Regarding claim 25 Spaur disclose the system of claim 15, wherein the multiple vehicles are each associated with a single user.

Regarding claim 26 Spaur disclose the system of claim 15, wherein the web site is configured to be displayed on a hand-held device.

Regarding claim 27 Spaur disclose the system of claim 26, wherein the hand-held device comprises a cellular telephone, computer, or personal digital assistant (PDA).

Regarding claim 28 Spaur disclose the system of claim 15, wherein the host computer is further configured to send an electronic communication including at least a portion of the operational characteristics of the single vehicle or multiple vehicles.

Regarding claim 29 Spaur disclose the system of claim 15, wherein the host computer is further configured to analyze a location of the single vehicle and display the location on at least one map.

Regarding claim 30 Spaur disclose the system of claim 15, wherein the set of vehicles includes at least one vehicle selected from a group comprising an

Art Unit: 3663

automobile, truck, wheeled commercial equipment, heavy truck, power sport vehicle, collision repair vehicle, marine vehicle, and recreational vehicle.

Regarding claim 31 Spaur disclose the system of claim 15, wherein the set of vehicles includes a fleet of vehicles.

Regarding claim 32 Spaur disclose a system for monitoring a set of vehicles (col. 13, lines 19-23; fleet of vehicles, col. 14, line 1), comprising:

a host computer 60 (fig. 1-4) configured to host a web site (col. 11, lines 58 to col. 12, lines 1-67) that receives operational characteristics transmitted wirelessly from the set of vehicles,

said web site (col. 11, lines 58 to col. 12, lines 1-67) programmed to display on a first web (col. 11, lines 58-67) interface operational characteristics of a single vehicle selected from among said set of vehicles,

said web site (col. 11, lines 58 to col. 12, lines 1-67) programmed to also display on a second web interface operational characteristics of multiple vehicles (col. 12, lines 2-17) among said set of vehicles,

wherein said multiple vehicles (col. 13, lines 19-23; fleet of vehicles, col. 14, line 1) are associated with a single entity,

wherein the host computer 60 is configured to wirelessly transmit a software component (IP address, col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39,

Art Unit: 3663

lines 58-67) identifying a subset of a set of operational characteristics to be monitored by an on-board diagnostic computer of a target vehicle,

wherein the software component comprises a field configured to describe a user specified rate for automatically querying the vehicle's on-board diagnostic computer for the subset of operational characteristics identified in the software component,

wherein the web site includes a software component selector (IP address, col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) to select the software component to be transmitted.

wherein the first web interface (col. 11, lines 58-67; col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) comprises a first web page that displays a vehicle diagnostic datum,

wherein the first web page comprises data fields describing: (i) a name of a diagnostic datum (engine operation, col. 12, lines 65-67; col. 9, lines 10-12), (ii) units (mileage, col. 9, lines 10-12) corresponding to the diagnostic datum, and (iii) a numerical value (col. 12, lines 26-30; mileage, col. 9, lines 10-12) corresponding to the diagnostic datum,

wherein the first page (col. 11, lines 58-67; col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) further comprises multiple sets of diagnostic data (col. 9) associated with the single vehicle, and

wherein the host computer 60 is further configured to send an electronic communication (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) including at least a portion of the operational characteristics of the single vehicle or multiple vehicles.

Regarding claim 33 Spaur disclose a system for monitoring a set of vehicles, comprising:

a host computer 60 configured to wirelessly transmit a software component (IP address, col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67),

wherein the software component identities a subset of a set of operational characteristics that are monitorable by an on-board diagnostic computer (122, 124, col. 10, lines 37+) of a target vehicle among a set of vehicles (col. 13, lines 19-23; fleet of vehicles, col. 14, line 1),

wherein the software component comprises a field configured to describe a user specified rate for automatically querying the vehicle's on-board diagnostic computer for the subset of operational characteristics identified in the software component, and

wherein the host computer 60 is further configured to wirelessly receive collected vehicle data (col. 2, lines 53 to col. 3) of the target vehicle, the collected data including the subset of monitorable operational characteristics identified in the transmitted software component.

Regarding claim 34 Spaur disclose the system of claim 33, wherein the software component is associated with a predetermined group of vehicles.

Regarding claim 35 Spaur disclose the system of claim 34, wherein the predetermined group of vehicles have at least one attribute in common.

Regarding claim 36 Spaur disclose the system of claim 33, wherein the set of vehicles includes at least one vehicle selected from a group comprising an automobile, truck, wheeled commercial equipment, heavy truck, power sport vehicle, collision repair vehicle, marine vehicle, and recreational vehicle.

Regarding claim 37 Spaur disclose a method of monitoring a set of operational characteristics of a vehicle, comprising:

(a) wirelessly receiving, by a wireless appliance (30, 80, 82, 84, fig. 2) in a vehicle, a software component (IP address, col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) identifying a subset of a set of operational characteristics that are monitored by an on-board diagnostic computer (122, 124, col. 10, lines 37+) of the vehicle;

(b) processing the received software component (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67);

(c) collecting (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) from the vehicle's on-board diagnostic computer data (122, 124, col. 10) for the subset of operational characteristics identified in the received software component;

(d) wirelessly transmitting the collected data (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67); and

wirelessly transmitting data (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) indicative of the vehicle's location (col. 3, lines 48; col. 9, lines 5),

wherein the software component (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) identifies an address of an operational characteristic for which data is to be collected from the vehicle's on-board diagnostic computer,

wherein the software component (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) comprises an address that describes a location of a diagnostic datum in a computer memory in the vehicle,

Art Unit: 3663

wherein the software component comprises a field configured to describe a user specified rate for automatically collecting the data (updated data, col. 9, lines 31-36), and

wherein the operational characteristics include at least one of the following: diagnostic trouble codes, vehicle speed, fuel level, fuel pressure, miles per gallon, engine RPM, mileage, oil pressure, oil temperature, tire pressure, tire temperature, engine coolant temperature, intake- manifold pressure, engine-performance tuning parameters, alarm status, accelerometer status, cruise-control status, fuel-injector performance, spark-plug timing, and a status of an anti-lock braking system (col. 3, lines 46-67; col. 9).

Regarding claim 38 Spaur disclose a method of monitoring a set of operational characteristics of a vehicle, comprising:

(a) wirelessly receiving, by a wireless appliance in a vehicle, a software component (IP address, col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67) identifying a subset of a set of operational characteristics that are monitored by an on-board diagnostic computer (122, 124, col. 10) of the vehicle;

(b) processing the received software component (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67);

(c) collecting from the vehicle's on-board diagnostic computer data for the subset of operational characteristics identified in the received software component (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67); and

(d) wirelessly transmitting the collected data (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67),

wherein the software component comprises a field configured to describe a user specified rate for automatically collecting the data.

Regarding claim 39 Spaur disclose the method of claim 38, wherein the software component identifies an address of an operational characteristic for which data is to be collected from the vehicle's on-board diagnostic computer.

Regarding claim 40 Spaur disclose method of claim 38, wherein the software component comprises an address that describes a location of a diagnostic datum in a computer memory in the vehicle.

Regarding claim 42 Spaur disclose method of claim 38, wherein the software component comprises a field that describes a time or frequency at which the data transmitting occurs.

Regarding claim 43 Spaur disclose method of claim 38, wherein the software component is an ASCII or binary data file (see TCP/IP, abstract; col. 3).

Art Unit: 3663

Regarding claim 44 Spaur disclose method of claim 38, wherein the operational characteristics include at least one of the following: diagnostic trouble codes, vehicle speed, fuel level, fuel pressure, miles per gallon, engine RPM, mileage, oil pressure, oil temperature, tire pressure, tire temperature, engine coolant temperature, intake-manifold pressure, engine-performance tuning parameters, alarm status, accelerometer status, cruise-control status, fuel-injector performance, spark-plug timing, and a status of an anti-lock braking system (col. 9).

Regarding claim 45 Spaur disclose method of claim 38, further comprising wirelessly transmitting data indicative of the vehicle's location.

Regarding claim 46 Spaur disclose method of claim 38, wherein the vehicle is selected from a group comprising an automobile, truck, wheeled commercial equipment, heavy truck, power sport vehicle, collision repair vehicle, marine vehicle, and recreational vehicle.

Regarding claim 47 Spaur disclose method of claim 38, wherein collecting data includes repeatedly collecting data from the vehicle's on-board diagnostic computer at times determined by a first schedule.

Regarding claim 48 Spaur disclose method of claim 47, wherein the first schedule is specified in the software component.

Art Unit: 3663

Regarding claim 49 Spaur disclose method of claim 38, wherein transmitting the collected data includes repeatedly transmitting the collected data at times determined by a first schedule.

Regarding claim 50 Spaur disclose method of claim 49, wherein the first schedule is specified in the software component.

Regarding claim 51 Spaur disclose a method of monitoring a set of vehicles, comprising:

(a) wirelessly receiving (col. 3, lines 3+; col. 4, lines 15-23; col. 11, lines 27-39, lines 58-67), by a host computer (60, 68, 76, fig. 2), operational characteristics of a set of vehicles (col. 12, lines 2-18);

(b) displaying, on a first web interface of a web site, operational characteristics of a single vehicle selected from among said set of vehicles;

(c) displaying, on a second web interface of the web site, operational characteristics of multiple vehicles among said set of vehicles; and

(d) wirelessly transmitting a software component identifying a subset of a set of operational characteristics to be monitored by an on-board diagnostic computer of a target vehicle,

wherein the software component comprises a field configured to describe a user specified rate for automatically querying the vehicle's on-board diagnostic

Art Unit: 3663

computer for the subset of operational characteristics identified in the software component,

wherein said multiple vehicles are associated with a single entity,

wherein the web site includes a software component selector to select the software component to be transmitted, wherein the first web interface comprises a first web page that displays a vehicle diagnostic datum,

wherein the first web page comprises data fields describing: (i) a name of a diagnostic datum, (ii) units corresponding to the diagnostic datum, and (iii) a numerical value corresponding to the diagnostic datum,

wherein the first web page further comprises multiple sets of diagnostic data associated with the single vehicle, wherein the web site further comprises a login web page programmed to accept user name and password inputs of a user, and

wherein the web site is configured to determine whether the user is associated with the first or second web interface.

Regarding claim 52 Spaur (col. 1-12) disclose a method of monitoring a set of vehicles, comprising:

(a) wirelessly transmitting a software component identifying a subset of a set of operational characteristics (col. 2, lines 53+; col. 3, lines 49+) to be monitored

Art Unit: 3663

by an on-board diagnostic computer (122, 124, fig. 2) located in each of a set of vehicles,

wherein the software component comprises a field configured to describe a user specified rate for automatically querying the vehicle's on-board diagnostic computer for the subset of operational characteristics (col. 2, lines 53+; col. 3, lines 49+) identified in the software component,

(b) wirelessly receiving, by a host computer, operational characteristics of a set of vehicles,

(c) displaying, on a first web interface of a web site, operational characteristics of a single vehicle selected from among said set of vehicles; and

(d) displaying, on a second web interface of the web site, operational characteristics of multiple vehicles among said set of vehicles,

wherein said multiple vehicles are associated with a single entity; and

Regarding claim 54 Spaur disclose the method of claim 52, wherein the web site includes a schema selector to select the software component to be transmitted.

Regarding claim 55 Spaur disclose the method of claim 52, wherein the first web interface comprises a first web page that displays a vehicle diagnostic datum.

Regarding claim 56 Spaur disclose the method of claim 55, wherein the first web page comprises data fields describing: (i) a name of a diagnostic datum; (ii)

Art Unit: 3663

units corresponding to the diagnostic datum, and (iii) a numerical value corresponding to the diagnostic datum.

Regarding claim 57 Spaur disclose the method of claim 56, wherein the first web page further comprises multiple sets of diagnostic data associated with the single vehicle.

Regarding claim 58 Spaur disclose the method of claim 55, wherein the first web page includes a graphical representation of a set of diagnostic data.

Regarding claim 59 Spaur disclose the method of claim 52, wherein the web site further comprises a database component.

Regarding claim 60 Spaur disclose the method of claim 52, wherein the web site further comprises a login web page programmed to accept user name and password inputs of a user.

Regarding claim 61 Spaur disclose the method of claim 60, wherein the web site is configured to determine whether the user is associated with the first or second web interface.

Regarding claim 62 Spaur disclose the method of claim 52, wherein the multiple vehicles are each associated with a single user.

Regarding claim 63 Spaur disclose the method of claim 52, wherein the web site is configured to be displayed on a hand-held device.

Art Unit: 3663

Regarding claim 64 Spaur disclose the method of claim 63, wherein the hand-held device comprises a cellular telephone, computer, or personal digital assistant (PDA).

Regarding claim 65 Spaur disclose the method of claim 52, further comprising sending an electronic communication including at least a portion of the operational characteristics of the single vehicle or multiple vehicles.

Regarding claim 66 Spaur disclose the method of claim 52, further comprising analyzing a location of the single vehicle and displaying the location on at least one map.

Regarding claim 67 Spaur disclose the method of claim 52, wherein the set of vehicles includes at least one vehicle selected from a group comprising an automobile, truck, wheeled commercial equipment, heavy truck, power sport vehicle, vehicle, collision repair vehicle, marine vehicle, and recreational vehicle.

Regarding claim 68 Spaur disclose the method of claim 52, wherein the set of vehicles includes a fleet of vehicles.

Regarding claim 69 Spaur disclose the method of monitoring a set of vehicles, comprising:

(a) wirelessly transmitting, by a host computer, a software component,

Art Unit: 3663

wherein the software component identifies a subset of a set of operational characteristics that are monitorable by an on-board diagnostic computer of a target vehicle among a set of vehicles,

wherein the software component comprises a field configured to describe a user specified rate for automatically querying the vehicle's on-board diagnostic computer for the subset of operational characteristics (col. 2, lines 53+; col. 3, lines 49+) identified in the software component, and

(b) wirelessly receiving collected vehicle data of the target vehicle, the collected data including the subset of monitorable operational characteristics identified in the transmitted software component

Regarding claim 70 Spaur disclose the method of claim 69, wherein the software component is associated with a predetermined group of vehicles.

Regarding claim 71 Spaur disclose the method of claim 70, wherein the predetermined group of vehicles having at least one attribute in common.

Regarding claim 72 Spaur disclose the method of claim 69, wherein the set of vehicles includes at least one vehicle selected from a group comprising an automobile, truck, wheeled commercial equipment, heavy truck, power sport vehicle, collision repair vehicle, marine vehicle, and recreational vehicle.

Art Unit: 3663

Regarding claim 73 Spaur (col. 2-12) disclose programmed apparatus, programmed to execute a method of monitoring a set of operational characteristics of a vehicle, the method comprising:

(a) wirelessly receiving, by a wireless appliance in a vehicle, a software component identifying a subset of a set of operational characteristics that are monitored by an on-board diagnostic computer of the vehicle;

(b) processing the received software component;

(c) collecting from the vehicle's on-board diagnostic computer data for the subset of operational characteristics identified in the received software component; and

(d) wirelessly transmitting the collected data,

wherein the software component comprises a field configured to describe a user specified rate for automatically collecting the data.

Regarding claim 74 Spaur disclose programmed apparatus of claim 73, wherein the software component identifies an address of an operational characteristic for which data is to be collected from the vehicle's on-board diagnostic computer.

Art Unit: 3663

Regarding claim 75 Spaur disclose programmed apparatus of claim 73, wherein the method further comprises wirelessly transmitting data indicative of the vehicle's location.

Regarding claim 76 Spaur disclose programmed apparatus of claim 73, wherein the vehicle is selected from a group comprising an automobile, truck, wheeled commercial equipment, heavy truck, power sport vehicle, collision repair vehicle, marine vehicle, and recreational vehicle.

Regarding claim 77 Spaur (col. 2-12) disclose programmed apparatus, programmed to execute a method of monitoring a set of vehicles, the method comprising:

(a) wirelessly transmitting a software component identifying a subset of a set of operational characteristics (col. 2, lines 53+; col. 3, lines 49+) to be monitored by an on-board diagnostic computer (122, 124, fig. 2) located in each of a set of vehicles,

wherein the software component comprises a field configured to describe a user specified rate for automatically querying each vehicle's on-board diagnostic computer for the subset of operational characteristics (col. 2, lines 53+; col. 3, lines 49+) identified in the software component,

Art Unit: 3663

(b) wirelessly receiving, by a host computer, operational characteristics of a set vehicles;

(c) displaying, on a first web interface of a web site, operational characteristics of a single vehicle selected from among said set of vehicles, and

(d) displaying, on a second web interface of the web site, operational characteristics of multiple vehicles among said set of vehicles, wherein said multiple vehicles are associated with a single entity; and

Regarding claim 79 Spaur disclose the programmed apparatus of claim 77, wherein the web site further comprises a login web page programmed to accept user name and password inputs of a user.

Regarding claim 80 Spaur disclose the programmed apparatus of claim 77, wherein the method further comprises sending an electronic communication including at least a portion of the operational characteristics of the single vehicle or multiple vehicles.

Regarding claim 81 Spaur disclose the programmed apparatus of claim 80, wherein the set of vehicles includes at least one vehicle selected from a group comprising an automobile, truck, wheeled commercial equipment, heavy truck, power sport vehicle, collision repair vehicle, marine vehicle, and recreational vehicle.

Regarding claim 82 Spaur (col. 2-12) disclose a programmed apparatus, programmed to execute a method of monitoring a set of vehicles, the method comprising:

(a) wirelessly transmitting, by a host computer, a software component, wherein the software component identifies a subset of a set of operational characteristics that are monitorable by an on-board diagnostic computer of a target vehicle among a set of vehicles,

wherein the software component comprises a field configured to describe a user specified rate for automatically querying the vehicle's on-board diagnostic computer for the subset of operational characteristics (col. 2, lines 53+; col. 3, lines 49+) identified in the software component; and

(b) wirelessly receiving collected vehicle data of the target vehicle, the collected data including the subset of monitorable operational characteristics identified in the transmitted software component.

Regarding claim 83 Spaur disclose the programmed apparatus of claim 82, wherein the software component is associated with a predetermined group of vehicles.

Regarding claim 84 Spaur disclose the programmed apparatus of claim 82, wherein the set of vehicles includes at least one vehicle selected from a group

Art Unit: 3663

comprising an automobile, truck, wheeled commercial equipment, heavy truck, power sport vehicle, collision repair vehicle, marine vehicle, and recreational vehicle.

Regarding claim 85 Spaur (col. 2-12) disclose a machine-readable medium encoded with a plurality of processor-executable instructions for:

- (a) wirelessly receiving, by a wireless appliance in a vehicle, a software component identifying a subset of a set of operational characteristics that are monitored by an on-board diagnostic computer of the vehicle;
 - (b) processing the received software component;
 - (c) collecting from the vehicle's on-board diagnostic computer data for the subset of operational characteristics identified in the received software component, and
 - (d) wirelessly transmitting the collected data,
- wherein the software component comprises a field configured to describe a user specified rate for automatically collecting the data.

Regarding claim 86 Spaur disclose the machine-readable medium of claim 85, wherein the vehicle is selected from a group comprising an automobile, truck, wheeled commercial equipment, heavy truck, power sport vehicle, collision repair vehicle, marine vehicle, and recreational vehicle.

Regarding claim 87 Spaur (col. 2-12) disclose a machine-readable medium encoded with a plurality of processor-executable instructions for:

(a) wirelessly transmitting a software component identifying a subset of a set of operational characteristics (col. 2, lines 53+; col. 3, lines 49+) to be monitored by an on-board diagnostic computer (122, 124, fig. 2) located in each of a set of vehicles,

wherein the software component comprises a field configured to describe a user specified rate for automatically querying the vehicle's on-board diagnostic computer for the subset of operational characteristics (col. 2, lines 53+; col. 3, lines 49+) identified in the software component;

(b) wirelessly receiving, by a host computer, operational characteristics of a set of vehicles,

(c) displaying, on a first web interface of a web site, operational characteristics of a single vehicle selected from among said set of vehicles; and

(d) displaying, on a second web interface of the web site, operational characteristics of multiple vehicles among said set of vehicles, wherein said multiple vehicles are associated with a single entity; and

Regarding claim 88 Spaur disclose the machine-readable medium of claim 87, wherein the set of vehicles includes at least one vehicle selected from a group

Art Unit: 3663

comprising an automobile, truck, wheeled commercial equipment, heavy truck, power sport vehicle, collision repair vehicle, marine vehicle, and recreational vehicle.

Regarding claim 89, Spaur (col. 2-12) disclose a machine-readable medium encoded with a plurality of processor-executable instructions for:

wirelessly transmitting, by a host computer, a software component, wherein the software component identifies a subset of a set of operational characteristics that are monitorable by an on-board diagnostic computer of a target vehicle among a set of vehicles,

wherein the software component comprises a field configured to describe a user specified rate for automatically querying the vehicle's on-board diagnostic computer for the subset of operational characteristics (col. 2, lines 53+; col. 3, lines 49+) identified in the software component; and

(b) wirelessly receiving collected vehicle data of the target vehicle, the collected data including the subset of monitorable operational characteristics identified in the transmitted software component.

Regarding claim 90 Spaur disclose machine-readable medium of claim 89, wherein the set of vehicles includes at least one vehicle selected from a group comprising an automobile, truck, wheeled commercial equipment, heavy truck,

Art Unit: 3663

power sport vehicle, collision repair vehicle, marine vehicle, and recreational vehicle.

MPEP 2114

In claims 1-15, 17-52, 54-90, the statements of intended use or field of use, “monitorable operational characteristics” etc clauses are essentially method limitations or statements of intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See *In re Pearson*, 181 USPQ 641; *In re Yanush*, 177 USPQ 705; *In re Finsterwalder*, 168 USPQ 530; *In re Casey*, 512 USPQ 235; *In re Otto*, 136 USPQ 458; *Ex parte Masham*, 2 USPQ 2nd 1647.

See MPEP § 2114 which states:

A claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ 2nd 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. *In re Danly*, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

Response to Arguments

6. Applicant's arguments filed 3/14/06 have been fully considered but they are not persuasive.

The applicant argues that the prior art does not disclose “a user specified rate (i.e. frequency) for automatically querying a vehicle’s on-board computer”. The examiner respectfully traverses such assertion. The prior art (col. 11, lines 15-26; col. 9, lines 31-36) anticipates the claimed “a user specified rate (i.e. frequency) for automatically querying a vehicle’s on-board computer”. That is the PCMCIA unit when inserted by the user collects the desired data automatically when the user desires. The rate here refers to how often the user inserts or activates the PCMCIA card for data collection.

Applicant further argues that the claims are method claims and not apparatus claims. As such MPEP 2114 does not apply to the claims. The examiner disagrees. The applicant is referred to e.g. claim 1 which calls for a system for interfacing with an on-board computer. This is an apparatus claim. The examiner further disagrees in the manner that the applicant’s representative interprets MPEP 2114 in a context that is improper.

The prior art anticipates claims. Thus the rejection is proper and stands.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Communication

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 571-272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax

Art Unit: 3663

phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronnie Mancho
Examiner
Art Unit 3663

October 15, 2006


JACK KEITH
SUPERVISORY PATENT EXAMINER